

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

220

CRM-M-3845-2022

Date of Decision : **March 02, 2022**

**MOORTI KAUR ALIAS MURTI KAUR ALIAS GURPREET KAUR
ALIAS GAGGU**

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Through Video Conferencing

Present : Mr. P.K.S.Phoolka, Advocate
for the petitioner.

Mr. C.L.Pawar, Sr. DAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.92 dated 21.6.2021 under Section 22(C) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar, District Bathinda.

As per the FIR, when the police party was patrolling in a vehicle in the village Virk Kalan then they saw one hair cut person and one lady who were sitting and from the transparent plastic bag they were taking out intoxicant tablets strips and counting them on which ASI on the basis of suspicion stopped the patrolling vehicle and both these persons on seeing the police party got perplexed and left the tablets and plastic bag on the Patri and stood up and then with the help of lady Constable and other official both of them were nabbed. The tablets were

in the plastic bag and was near their feet on the Patri and from the transparent bag intoxicant tablets strips could be clearly seen inside as well as outside the bag.

The learned counsel for the petitioner has submitted that the petitioner is a lady of the age of 33 years and is in custody from 21.6.2021 and has clean antecedents and is not involved in any other case and it was only because of the political rivalry in the village that the petitioner has been falsely implicated by the police at the instance of the political rivals. He submitted that there is no recovery from the petitioner and the story put forth by the police is also vague and improbable. He further submitted that the tablets of tramadol were alleged to be found in a transparent bag which is improbable and in case somebody indulging in such kind of activities why would he/she keep the contraband in a transparent bag. He also submitted that nothing was recovered from conscious possession of the petitioner and apart from that the place was neither the house of the petitioner nor the place belongs to the petitioner but it was an allegedly open space and the allegation against the petitioner was that the bag was near the petitioner. He submitted that the petitioner is not having any criminal background and is not involved in any other case and the present story has been concocted by the police and she being a lady is facing incarceration for more than 8 months and, therefore, she may be considered for the grant of regular bail. He further submitted that although the alleged recovery was of 1800 tablets of tramadol which falls under the commercial quantity but the present prayer of the petitioner would not be hit by the bar contained under Section 37

of the NDPS Act in view of the aforesaid facts and circumstances.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner, who is a lady, is in custody from 21.6.2021 and the petitioner is not involved in any other case. He further submitted that the material witnesses in the present case have already been examined. However, he has opposed the grant of bail to the petitioner only on the ground that the recovery in the present case was of a commercial quantity

I have heard the learned counsels for the parties.

The petitioner who is a lady of 33 years of age is in custody from 21.6.2021 which is more than 8 months and the material witnesses have since been examined as per the learned State counsel. Although this Court does not wish to observe anything on the merits of the case but for the purpose of considering the grant of bail, a perusal of the FIR would show that the allegations against the petitioner were that she alongwith other person was sitting on the Patri and some tablets were lying in a transparent bag near them and on seeing the police party they fled away. The petitioner is not involved in any other case and it is not the case of the State that in case the petitioner is released on bail then she may again repeat the offence or influence any witness or may tamper with any evidence or may abscond from justice. Therefore, considering from the angle of bar contained under Section 37 of the NDPS Act, this Court is satisfied that in view of the facts and circumstances aforesaid, there seems to be a prima facie case in favour of the petitioner and there are reasons to believe that the petitioner is not at guilty atleast at this stage

coupled with the fact that there is no apprehension with the State that in case the petitioner, who is a lady, is released on bail may repeat the offence and, therefore, both the ingredients for making a departure from the bar contained under Section 37 of NDPS Act are satisfied at this stage atleast.

Therefore, in view of the facts and circumstances of the present case, the petitioner deserves to be granted regular bail.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

March 02, 2022

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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No